

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.6023 of 2023**

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1. The Union of India through the Secretary, Ministry of Health and Family Welfare, Government of India, Near Udyog Bhawan Metro Station, Maulana Azad Road, New Delhi, 110011.
2. The All India Institute of Medical Sciences, Patna (AIIMS, Patna) through the Institute President, Aurangabad Road, Phulwarisharif, P.S.- Phulwarisharif, District- Patna- 801507.
3. The Chairman, Governing Body, All India Institute of Medical Sciences, Patna (AIIMS, Patna) through the Institute President, Aurangabad Road, Phulwarisharif, P.S.- Phulwarisharif, District- Patna- 801507.
4. The Executive Director, All India Institute of Medical Sciences, Patna Aurangabad Road, Phulwarisharif, P.S.- Phulwarisharif, District- Patna- 801507.
5. The Deputy Director (Administration), All India Institute of Medical Sciences, Patna Aurangabad Road, Phulwarisharif, P.S.- Phulwarisharif, District- Patna- 801507.

... .. Petitioner/s

Versus

Sailesh Kumar Mukul Son of Dr. Radha Sharan Singh, Resident of Mohalla-Gaushala Road, Siwan, P.O. and P.S. Siwan, District- Siwan, Bihar (PIN- 841226) presently posted as Associate Professor, Department of Dentistry, AIIMS, Patna and residing at Type- 4, Block-1, House No. 107, AIIMS Residential Complex, Hydraulic Road, P.S. Phulwarisharif, District- Patna, Bihar (PIN- 801501).

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Dr. K.N. Singh, ASGI, Advocate<br>Mr. Binay Kumar Pandey, Advocate<br>Mr. Shivaditya Dhari Sinha, JC to ASG<br>Mr. Sriram Krishna, JC to ASG |
| For the Respondent/s | : | Mr. Prashant Kumar, Advocate<br>Mr. Shashank Shekhar Dubey, Advocate                                                                         |

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**and**  
**HONOURABLE MR. JUSTICE JITENDRA KUMAR**  
**ORAL JUDGMENT**



**(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

**Date : 24-07-2023**

The petitioner – Union of India & Ors. have assailed the order of the Central Administrative Tribunal (hereinafter referred to as “Tribunal”) dated 01.02.2023, passed in O.A. No. 050/00400/2021. Respondent – Sailesh Kumar Mukul is an Associate Professor, Department of Dentistry at AIIMS, Patna and he was placed under suspension on 23.09.2019. Thereafter, successive orders have been passed in extending the suspension. Further, he has been subjected to Disciplinary Proceedings in framing Article of charges.

2. Feeling aggrieved by the aforementioned action of the petitioner, respondent invoked Section 19 of the Administrative Tribunal Act, 1985 and filed Original Application in assailing the actions of the respondent insofar as suspension and its continuation and initiation of departmental inquiry.

3. Perusal of para-21 of the Tribunal order, it is evident that suspension order has been passed by the 4<sup>th</sup> petitioner - Director and without there being a compliance to statutory power, however, after issuance of suspension order on 23.09.2019, the 4<sup>th</sup> petitioner - Director is stated to have



obtained ratification from the next higher authorities. There is no provision for post ratification of the 4<sup>th</sup> petitioner - Director. Therefore, it would go to the root of the matter to the extent that suspension order dated 23.09.2019 has been issued without approval of next higher authorities. Therefore, no interference is warranted.

4. Initiation of inquiry is also incomplete, in the sense, Competent Authority have not taken a decision. Therefore, on the ground of competency, the Tribunal has interfered. Moreover, it is to be noted that insofar as challenge to the show cause notice, ordinarily Courts will not interfere, unless and until there is a violation of any Statutory Rules or order passed by an competent Authority as held by Apex Court in the case of ***Union of India and Another v. Kunisetty Satyanarayana*** reported in ***(2006) 12 SCC 28*** and ***State of Uttar Pradesh & Ors. vs. Prabhat Kumar*** reported in ***2022 Live Law SC 736***. Therefore, even on this count, the 4<sup>th</sup> petitioner – Director & Union of India & Ors., have not made out a case.

5. Learned counsel for the petitioner submitted that in para-24, the Tribunal has made certain observations and those observations are not warranted while dealing with the suspension and initiation of inquiry against the respondent. It is



necessary to reproduce para-24 of the order dated 01.02.2023, passed in O.A. No. 050/00400/2021, it reads as under:-

*“Before parting, we consider it our duty to mention that the facts emerging in this case do not present a very happy situation in AIIMS, Patna. Registration of FIRs, complaints of sexual harassment, locking of house of the applicant by orders of Director and finally the issuance of suspension order and the charge memorandum suggest internal feud among staff. We sincerely hope that this case is not the tip of an iceberg of much larger rot in the Institute, however, those in the helm of affairs should be aware of the concern. Let a copy of this order be sent to Secretary, Health and Family Welfare, Government of India to take note of the situation and events in AIIMS, Patna and to take measures as deemed appropriate.”*

6. The Tribunal has taken note of extraneous material, that too in a very vague manner in the absence of citing any of the proved incident and so also in not providing opportunity to the petitioner. Therefore, the aforementioned observation in para-24 against the petitioner is concerned, it is expunged.

7. Accordingly, present writ petition is allowed in part.

8. Order of the Tribunal and orders of this Court would not come in the way of initiating inquiry by the 4<sup>th</sup> petitioner afresh and in accordance with relevant provision of law or by competent authority. If such inquiry is initiated, it



shall be initiated and concluded within a period of six (6) months from the date of receipt of this order.

9. At this stage, learned counsel for the respondent submitted that the petitioner has not paid difference of salary to the respondent in view of setting aside the order of suspension. In this regard, the concerned authority is hereby directed to regulate the suspension period as a duty while calculating difference of salary and disbursed the same within a period of three (3) months from the date of receipt of this order, if it is not paid to him.

**(P. B. Bajanthri, J)**

**(Jitendra Kumar, J)**

Shoaib/-

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| AFR/NAFR          | NAFR        |
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